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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of

ADVANCED TELEVISION SYSTEMS  
AND THEIR IMPACT UPON THE  
EXISTING TELEVISION BROADCAST  
SERVICE

MM Docket No. 87-268

To: The Commission

COMMENTS IN RESPONSE TO DECEMBER 2, 1997 PUBLIC NOTICE

The WB Television Network ("WB"), the nation's fifth and fastest-growing national television broadcast network, by its undersigned attorney, respectfully submits these Comments in response to the Commission's December 2, 1997 Public Notice (the "Public Notice") <sup>1/</sup> inviting responses to the November 20, 1997 *ex parte* submission on behalf of the Association for Maximum Service Television, Inc. ("MSTV") and the November 25, 1997 *ex parte* submission on behalf of the Association of Local Television Stations ("ALTV") in this proceeding.

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The Public Notice is entitled, "FCC Seeks Comment on Filings Addressing Digital TV Allotments."

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1. WB takes no position with respect to MSTV's *ex parte* submission, other than to point out -- as have others <sup>2/</sup> -- that MSTV's proposal for an "improved" Table of Allotments for Digital Television Broadcast Stations continues to avoid addressing the disparity in the power levels between the digital television ("DTV") broadcast channels allotted in the Commission's Sixth Report and Order in this proceeding <sup>3/</sup> to NTSC UHF stations ("U-to-U's") and the DTV broadcast channels allotted in the Sixth Report and Order to NTSC VHF stations ("V-to-U's").

2. WB respectfully submits that the Commission has not adequately considered the long-term, or -- for that matter -- even the short-term, implications of establishing a two-tiered television system in this country. U-to-U's have provided outlets for alternative programming, including the emerging challengers to the traditional "Big Three" national

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<sup>2/</sup> See, e.g., "Joint Response to *Ex Parte* Submissions of MSTV and ALTV," submitted as of the date hereof on behalf of Viacom Inc., *et al.*, in response to the Public Notice.

<sup>3/</sup> FCC 97-115, adopted April 3, 1997 and released April 21, 1997.

television networks <sup>4/</sup>; specialty networks <sup>5/</sup>; foreign-language networks <sup>6/</sup>; and other means of distributing non-traditional programming to the American public. By establishing differential power levels between V-to-U's and U-to-U's that, in extreme cases, have ratios of as much as 20-to-1, the Commission is casting the U-to-U universe of stations into a competitive chasm that is far more severe than those stations have ever faced. Surely this Commission does not want to be remembered as the agency that doomed the distribution mechanisms for the variety of minority-oriented, youth-oriented, and other alternative programming that U-to-U stations have been carrying and promise to carry into the DTV era. It is distribution that creates the opportunity for programming diversity. In the case of WB, heavy reliance is placed upon distribution over UHF stations. In fact, no more than seven of WB's affiliates are VHF stations.

3. ALTV's *ex parte* submission offers a creative suggestion for redressing the imbalance in the U-to-U *versus* V-to-U DTV power levels. The genius of ALTV's proposal for the use of beam-tilted antennas is that it would not materially affect the Sixth Report and Order's Table of Allotments, nor would it have any significant impact upon co-channel and

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<sup>4/</sup> WB and UPN are examples of such emerging networks. Fox Broadcasting Company successfully emerged to become what is sometimes referred to as one of the "Big Four" networks.

<sup>5/</sup> The recently-announced 1998 launch of PaxNet comes to mind. That network, as advertised, would feature so-called "family-friendly" programming.

<sup>6/</sup> An example is Univision, the leading Spanish-language television network.

adjacent-channel interference relationships among DTV channel allotments set forth in the Sixth Report and Order. Rather, ALTV's proposal would enable each DTV station, especially U-to-U's, to utilize higher power levels than contemplated in the Sixth Report and Order, without materially affecting the effective field intensity of the station's signal at its protected contour.

4. The Commission is fully aware that the decisions reached in this proceeding will affect both the quantity and quality of free, over-the-air television broadcasting for the next generation or more. Steps must be taken to ensure that a privileged class of V-to-U's does not enjoy such a substantial government-mandated advantage over its competitors as to draw the country back to the days before the 1980's, when only three networks were available to most television viewers. The costs of converting NTSC stations to their DTV channels, with no assurance that audiences or advertising support will be found on the other side of that conversion, is daunting enough. To introduce a structure of radically-different coverage potentials ensuring drastic competitive imbalances among and between the stations undertaking that conversion would represent a form of governmental industrial policy of the worst kind.

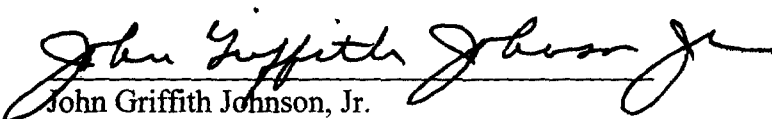
5. The perpetuation of the great disparity between NTSC VHF and UHF stations into the digital age would be bad enough; but the creation of an even greater and more harmful disparity, going forward, is almost unimaginable. It would seem that even if parity between the existing VHF and UHF stations cannot be achieved -- and parity, going forward,

would be the course of first choice -- then the Commission should maintain in the digital environment the same relative positions that exist between VHF stations and UHF stations in the NTSC framework.

6. The Commission's current plan for perpetuating and increasing the VHF/UHF power and coverage disparity holds potentially-calamitous repercussions for broadcasters. The harmful cause-and-effect to the operators of UHF stations can be readily understood. However, more subtle is the realization that the programming services that depend upon the distribution that UHF stations provide can be hobbled if their instrumentalities of distribution are radically curtailed. Although the entities that provide the broadcast facilities and that build the emerging networks are the ones that bear the financial risks, ultimately it is the viewing public that would be the loser if such curtailment were carried into and exacerbated by the digital channel allotment plan, since it is the public that would be deprived of the opportunity for programming diversity.

Respectfully submitted,

**THE WB TELEVISION NETWORK**

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December 17, 1997